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JOHN EARL CAMPBELL

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA

JOHN EARL CAMPBELL,  
Plaintiff,

v.

NATIONAL RAILROAD PASSENGER  
CORPORATION dba AMTRAK, JOE  
DEELY, and DOES 1-15, inclusive,  
Defendants.

) NO. C05-5434 MJJ (EDL)

) **PLAINTIFF'S SEPARATE STATEMENT OF**  
) **DOCUMENT REQUESTS IN DISPUTE IN**  
) **SUPPORT OF MOTION TO COMPEL**  
) **DISCOVERY**

) DATE: May 8, 2007  
) TIME: 9:00 a.m.  
) DEPT.: Courtroom E, 15<sup>th</sup> Floor

) HON. ELIZABETH D. LAPORTE

DISCOVERY CUT-OFF: March 23, 2007

TRIAL DATE: July 23, 2007

**DISCOVERY MATTER**

Pursuant to Local Rule 37-2, Plaintiff JOHN CAMPBELL submits the following Requests for Production of Documents verbatim propounded to Defendant NATIONAL RAILROAD PASSENGER CORPORATION d.b.a. AMTRAK, and the responses received verbatim. The reason to compel disclosure of the information is detailed in Plaintiff's Memorandum of Points and Authorities and the Declaration of Pamela Y. Price filed and served concurrently herewith.

**REQUEST NO. 17.**

All **DOCUMENTS** which **REFLECT, RELATE** or **REFER TO** Defendant Joe DEELY's employment with Defendant AMTRAK, including but not limited to DEELY's personnel file or files; the "folder," "jacket" or other container of each such file and any attachments thereto, any discipline records, promotion applications to ANY and ALL positions held and all files maintained by individual supervisors or others employed by Defendant AMTRAK.

**RESPONSE TO REQUEST FOR PRODUCTION NO. 17:**

Defendant objects to this request on the basis it is overbroad, compound, and unduly burdensome. Defendant further objects to this request as seeking information neither relevant to the claim or defense of any party, nor reasonably calculated to lead to the discovery of admissible evidence. Defendant also objects to this request to the extent it seeks to obtain information or materials protected from disclosure by the California Constitutional right of privacy and/or the federally recognized right to privacy under the United States Constitution. See Board of Trustees of Leland Stanford Junior University v. Superior Court (1981) 119 Cal.App.3d 516 (personnel records subject to Constitutional right of privacy); Valley Bank of Nevada v. Superior Court (1975) 15 Cal.3d 652, 657 (A party to an action may assert the privacy rights of third parties such as its employees.); Tylo v. Superior Court (1997) 55 Cal.App.4th 1379, 1387 ("[t]he party seeking the constitutionally protected information has the burden of establishing that the information sought is directly relevant to the claims."); Johnson by Johnson v. Thompson (10<sup>th</sup> Cir. 1992) 971 F.2d 1487, 1497; Miller v. Federal Express Corp. (WD TN 1999) 186 FRD 376, 384; Matter of Hawaii Corp. (D HI 1980) 88 FRD 518, 524.

**REQUEST NO. 18.**

All **DOCUMENTS** which **REFLECT, RELATE** or **REFER TO** Jason Garmon's employment with Defendant AMTRAK, including but not limited to Garmon's personnel file or files; the "folder," "jacket" or other container of each such file and any attachments thereto, any discipline records, promotion applications to ANY and ALL positions held, and all files maintained by individual supervisors or others employed by Defendant AMTRAK.

**RESPONSE TO REQUEST FOR PRODUCTION NO. 18:**

Defendant objects to this request on the basis it is overbroad, compound, and unduly burdensome. Defendant further objects to this request as seeking information neither relevant to the claim or defense of any party, nor reasonably calculated to lead to the discovery of admissible evidence. Defendant also objects to this request to the extent it seeks to obtain information or materials protected from disclosure by the California Constitutional right of privacy and/or the federally recognized right to privacy under the United States Constitution. See Board of Trustees of Leland Stanford Junior University v. Superior Court (1981) 119 Cal.App.3d 516 (personnel records subject to Constitutional right of privacy); Valley Bank of Nevada v. Superior Court (1975) 15 Cal.3d 652, 657 (A party to an action may assert the privacy rights of third parties such as its employees.); Tylo v. Superior Court (1997) 55 Cal.App.4th 1379, 1387 ("[t]he party seeking the constitutionally protected information has the burden of establishing that the information sought is directly relevant to the claims."); Johnson by Johnson v. Thompson (10<sup>th</sup> Cir. 1992) 971 F.2d 1487, 1497; Miller v. Federal Express Corp. (WD TN 1999) 186 FRD 376, 384; Matter of Hawaii Corp. (D HI 1980) 88 FRD 518, 524. Subject to and without waiving the foregoing, Amtrak responds as follows: Notwithstanding Amtrak's objections above, Amtrak previously produced applications and related records that it received in response to the jobs/vacancies to which Plaintiff contends he applied. To the extent Jason Garmon applied for any such position, his application and supporting documentation were produced.

**REQUEST NO. 19.**

All **DOCUMENTS** which **REFLECT, RELATE** or **REFER TO** Michael Poirier's employment

with Defendant AMTRAK, including but not limited to Poirier's personnel file or files; the "folder," "jacket" or other container of each such file and any attachments thereto, any discipline records, promotion applications to ANY and ALL positions held, and all files maintained by individual supervisors or others employed by Defendant AMTRAK.

**RESPONSE TO REQUEST FOR PRODUCTION NO. 19:**

Defendant objects to this request on the basis it is overbroad, compound, and unduly burdensome. Defendant further objects to this request as seeking information neither relevant to the claim or defense of any party, nor reasonably calculated to lead to the discovery of admissible evidence. Defendant also objects to this request to the extent it seeks to obtain information or materials protected from disclosure by the California Constitutional right of privacy and/or the federally recognized right to privacy under the United States Constitution. See Board of Trustees of Leland Stanford Junior University v. Superior Court (1981) 119 Cal.App.3d 516 (personnel records subject to Constitutional right of privacy); Valley Bank of Nevada v. Superior Court (1975) 15 Cal.3d 652, 657 (A party to an action may assert the privacy rights of third parties such as its employees.); Tylo v. Superior Court (1997) 55 Cal.App.4th 1379, 1387 ("[t]he party seeking the constitutionally protected information has the burden of establishing that the information sought is directly relevant to the claims."); Johnson by Johnson v. Thompson (10<sup>th</sup> Cir. 1992) 971 F.2d 1487, 1497; Miller v. Federal Express Corp. (WD TN 1999) 186 FRD 376, 384; Matter of Hawaii Corp. (D HI 1980) 88 FRD 518, 524. Subject to and without waiving the foregoing, Amtrak responds as follows: Notwithstanding Amtrak's objections above, Amtrak previously produced applications and related records that it received in response to the jobs/vacancies to which Plaintiff contends he applied. To the extent Michael Poirier applied for any such position, his application and supporting documentation were produced.

**REQUEST NO. 20.**

All **DOCUMENTS THAT REFLECT, REFER or RELATE TO** the employment of K. Marty's including but not limited to Marty's personnel file or files, discipline records, promotion application and including but not limited to the "folder," "jacket" or other container of each such file and any

1 attachments thereto and all files maintained by individual supervisors or others employed by  
2 Defendant AMTRAK.

3 **RESPONSE TO REQUEST FOR PRODUCTION NO. 20:**

4 Defendant objects to this request on the basis it is overbroad, compound, and unduly burdensome.  
5 Defendant further objects to this request as seeking information neither relevant to the claim or  
6 defense of any party, nor reasonably calculated to lead to the discovery of admissible evidence.  
7 Defendant also objects to this request to the extent it seeks to obtain information or materials  
8 protected from disclosure by the California Constitutional right of privacy and/or the federally  
9 recognized right to privacy under the United States Constitution. See Board of Trustees of Leland  
10 Stanford Junior University v. Superior Court (1981) 119 Cal.App.3d 516 (personnel records subject  
11 to Constitutional right of privacy); Valley Bank of Nevada v. Superior Court (1975) 15 Cal.3d 652,  
12 657 (A party to an action may assert the privacy rights of third parties such as its employees.); Tylo  
13 v. Superior Court (1997) 55 Cal.App.4th 1379, 1387 (“[t]he party seeking the constitutionally  
14 protected information has the burden of establishing that the information sought is directly relevant  
15 to the claims.”); Johnson by Johnson v. Thompson (10<sup>th</sup> Cir. 1992) 971 F.2d 1487, 1497; Miller v.  
16 Federal Express Corp. (WD TN 1999) 186 FRD 376, 384; Matter of Hawaii Corp. (D HI 1980) 88  
17 FRD 518, 524. Subject to and without waiving the foregoing, Amtrak responds as follows:  
18 Notwithstanding Amtrak’s objections above, Amtrak previously produced applications and related  
19 records that it received in response to the jobs/vacancies to which Plaintiff contends he applied. To  
20 the extent K. Marty applied for any such position, his application and supporting documentation  
21 were produced.  
22

23 **REQUEST NO. 21.**

24 All **DOCUMENTS THAT REFLECT, REFER or RELATE TO** the employment of F.J. Caron,  
25 including but not limited to Caron’s personnel file or files, discipline records, promotion application  
26 and including but not limited to the “folder,” “jacket” or other container of each such file and any  
27 attachments thereto and all files maintained by individual supervisors or others employed by  
28 Defendant AMTRAK.

**RESPONSE TO REQUEST FOR PRODUCTION NO. 21:**

Defendant objects to this request on the basis it is overbroad, compound, and unduly burdensome. Defendant further objects to this request as seeking information neither relevant to the claim or defense of any party, nor reasonably calculated to lead to the discovery of admissible evidence. Defendant also objects to this request to the extent it seeks to obtain information or materials protected from disclosure by the California Constitutional right of privacy and/or the federally recognized right to privacy under the United States Constitution. See Board of Trustees of Leland Stanford Junior University v. Superior Court (1981) 119 Cal.App.3d 516 (personnel records subject to Constitutional right of privacy); Valley Bank of Nevada v. Superior Court (1975) 15 Cal.3d 652, 657 (A party to an action may assert the privacy rights of third parties such as its employees.); Tylo v. Superior Court (1997) 55 Cal.App.4th 1379, 1387 (“[t]he party seeking the constitutionally protected information has the burden of establishing that the information sought is directly relevant to the claims.”); Johnson by Johnson v. Thompson (10<sup>th</sup> Cir. 1992) 971 F.2d 1487, 1497; Miller v. Federal Express Corp. (WD TN 1999) 186 FRD 376, 384; Matter of Hawaii Corp. (D HI 1980) 88 FRD 518, 524. Subject to and without waiving the foregoing, Amtrak responds as follows: Notwithstanding Amtrak’s objections above, Amtrak previously produced applications and related records that it received in response to the jobs/vacancies to which Plaintiff contends he applied. To the extent F.J. Caron applied for any such position, his application and supporting documentation were produced.

**REQUEST NO. 22.**

All **DOCUMENTS THAT REFLECT, REFER or RELATE TO** the identification of each African-American conductor who applied for an engineer position in the Pacific Division of Defendant AMTRAK from January 1998 to the present.

**RESPONSE TO REQUEST FOR PRODUCTION NO. 22:**

Defendant objects to this request on the basis it is overbroad, compound, and unduly burdensome. Defendant further objects to this request as seeking information neither relevant to the claim or defense of any party, nor reasonably calculated to lead to the discovery of admissible evidence.

Defendant also objects to this request to the extent it seeks to obtain information or materials protected from disclosure by the California Constitutional right of privacy and/or the federally recognized right to privacy under the United States Constitution. See Board of Trustees of Leland Stanford Junior University v. Superior Court (1981) 119 Cal.App.3d 516 (personnel records subject to Constitutional right of privacy); Valley Bank of Nevada v. Superior Court (1975) 15 Cal.3d 652, 657 (A party to an action may assert the privacy rights of third parties such as its employees.); Tylo v. Superior Court (1997) 55 Cal.App.4th 1379, 1387 (“[t]he party seeking the constitutionally protected information has the burden of establishing that the information sought is directly relevant to the claims.”); Johnson by Johnson v. Thompson (10<sup>th</sup> Cir. 1992) 971 F.2d 1487, 1497; Miller v. Federal Express Corp. (WD TN 1999) 186 FRD 376, 384; Matter of Hawaii Corp. (D HI 1980) 88 FRD 518, 524. Subject to and without waiving the foregoing, Amtrak responds as follows: Notwithstanding Amtrak’s objections above, Amtrak previously produced applications and related records that it received in response to the jobs/vacancies to which Plaintiff contends he applied. To the extent any African-American conductor applied for any such position, such application and supporting documentation were produced.

**REQUEST NO. 23.**

All **DOCUMENTS THAT REFLECT, REFER or RELATE TO** the race of all conductors who were voluntarily or involuntarily terminated in the Pacific Division of Defendant AMTRAK from January 1998 to the present.

**RESPONSE TO REQUEST FOR PRODUCTION NO. 23:**

Defendant objects to this request on the basis it is overbroad, compound, and unduly burdensome.

Defendant further objects to this request as seeking information neither relevant to the claim or defense of any party, nor reasonably calculated to lead to the discovery of admissible evidence.

Defendant also objects to this request to the extent it seeks to obtain information or materials protected from disclosure by the California Constitutional right of privacy and/or the federally recognized right to privacy under the United States Constitution. See Board of Trustees of Leland Stanford Junior University v. Superior Court (1981) 119 Cal.App.3d 516 (personnel records subject



to Constitutional right of privacy); Valley Bank of Nevada v. Superior Court (1975) 15 Cal.3d 652, 657 (A party to an action may assert the privacy rights of third parties such as its employees.); Tylo v. Superior Court (1997) 55 Cal.App.4th 1379, 1387 (“[t]he party seeking the constitutionally protected information has the burden of establishing that the information sought is directly relevant to the claims.”); Johnson by Johnson v. Thompson (10<sup>th</sup> Cir. 1992) 971 F.2d 1487, 1497; Miller v. Federal Express Corp. (WD TN 1999) 186 FRD 376, 384; Matter of Hawaii Corp. (D HI 1980) 88 FRD 518, 524. In addition, Amtrak objects to this request to the extent it calls for documents protected from disclosure by the attorney-client privilege and the attorney work product doctrine.

**REQUEST NO. 24.**

All **DOCUMENTS THAT REFLECT, REFER or RELATE TO** the total number of African-American engineers hired in the Pacific Division of Defendant AMTRAK from January 1998 to the present.

**RESPONSE TO REQUEST FOR PRODUCTION NO. 24:**

Defendant objects to this request on the basis it is overbroad, compound, and unduly burdensome. Defendant further objects to this request as seeking information neither relevant to the claim or defense of any party, nor reasonably calculated to lead to the discovery of admissible evidence. Defendant also objects to this request to the extent it seeks to obtain information or materials protected from disclosure by the California Constitutional right of privacy and/or the federally recognized right to privacy under the United States Constitution. See Board of Trustees of Leland Stanford Junior University v. Superior Court (1981) 119 Cal.App.3d 516 (personnel records subject to Constitutional right of privacy); Valley Bank of Nevada v. Superior Court (1975) 15 Cal.3d 652, 657 (A party to an action may assert the privacy rights of third parties such as its employees.); Tylo v. Superior Court (1997) 55 Cal.App.4th 1379, 1387 (“[t]he party seeking the constitutionally protected information has the burden of establishing that the information sought is directly relevant to the claims.”); Johnson by Johnson v. Thompson (10<sup>th</sup> Cir. 1992) 971 F.2d 1487, 1497; Miller v. Federal Express Corp. (WD TN 1999) 186 FRD 376, 384; Matter of Hawaii Corp. (D HI 1980) 88 FRD 518, 524. In addition, Amtrak objects to this request to the extent it calls for documents



protected from disclosure by the attorney-client privilege and the attorney work product doctrine.

**REQUEST NO. 25.**

All **DOCUMENTS THAT REFLECT, REFER or RELATE TO** the total number of engineers hired in the Pacific Division of Defendant AMTRAK from January 1998 to the present.

**RESPONSE TO REQUEST FOR PRODUCTION NO. 25:**

Defendant objects to this request on the basis it is overbroad, compound, and unduly burdensome.

Defendant further objects to this request as seeking information neither relevant to the claim or defense of any party, nor reasonably calculated to lead to the discovery of admissible evidence.

Defendant also objects to this request to the extent it seeks to obtain information or materials protected from disclosure by the California Constitutional right of privacy and/or the federally recognized right to privacy under the United States Constitution. See Board of Trustees of Leland Stanford Junior University v. Superior Court (1981) 119 Cal.App.3d 516 (personnel records subject to Constitutional right of privacy); Valley Bank of Nevada v. Superior Court (1975) 15 Cal.3d 652, 657 (A party to an action may assert the privacy rights of third parties such as its employees.); Tylo v. Superior Court (1997) 55 Cal.App.4th 1379, 1387 (“[t]he party seeking the constitutionally protected information has the burden of establishing that the information sought is directly relevant to the claims.”); Johnson by Johnson v. Thompson (10<sup>th</sup> Cir. 1992) 971 F.2d 1487, 1497; Miller v. Federal Express Corp. (WD TN 1999) 186 FRD 376, 384; Matter of Hawaii Corp. (D HI 1980) 88 FRD 518, 524. In addition, Amtrak objects to this request to the extent it calls for documents protected from disclosure by the attorney-client privilege and the attorney work product doctrine.

**REQUEST NO. 26.**

All **DOCUMENTS THAT REFLECT, REFER or RELATE TO** the total number of conductors employed in the Pacific Division of Defendant AMTRAK from January 1998 to the present.

**RESPONSE TO REQUEST FOR PRODUCTION NO. 26:**

Defendant objects to this request on the basis it is overbroad, compound, and unduly burdensome.

Defendant further objects to this request as seeking information neither relevant to the claim or defense of any party, nor reasonably calculated to lead to the discovery of admissible evidence.

Defendant also objects to this request to the extent it seeks to obtain information or materials protected from disclosure by the California Constitutional right of privacy and/or the federally recognized right to privacy under the United States Constitution. See Board of Trustees of Leland Stanford Junior University v. Superior Court (1981) 119 Cal.App.3d 516 (personnel records subject to Constitutional right of privacy); Valley Bank of Nevada v. Superior Court (1975) 15 Cal.3d 652, 657 (A party to an action may assert the privacy rights of third parties such as its employees.); Tylo v. Superior Court (1997) 55 Cal.App.4th 1379, 1387 (“[t]he party seeking the constitutionally protected information has the burden of establishing that the information sought is directly relevant to the claims.”); Johnson by Johnson v. Thompson (10<sup>th</sup> Cir. 1992) 971 F.2d 1487, 1497; Miller v. Federal Express Corp. (WD TN 1999) 186 FRD 376, 384; Matter of Hawaii Corp. (D HI 1980) 88 FRD 518, 524. In addition, Amtrak objects to this request to the extent it calls for documents protected from disclosure by the attorney-client privilege and the attorney work product doctrine.

**REQUEST NO. 27.**

All **DOCUMENTS THAT REFLECT, REFER or RELATE TO** the total number of African-American conductors employed in the Pacific Division of Defendant AMTRAK from January 1998 to the present.

**RESPONSE TO REQUEST FOR PRODUCTION NO. 27:**

Defendant objects to this request on the basis it is overbroad, compound, and unduly burdensome.

Defendant further objects to this request as seeking information neither relevant to the claim or defense of any party, nor reasonably calculated to lead to the discovery of admissible evidence.

Defendant also objects to this request to the extent it seeks to obtain information or materials protected from disclosure by the California Constitutional right of privacy and/or the federally recognized right to privacy under the United States Constitution. See Board of Trustees of Leland Stanford Junior University v. Superior Court (1981) 119 Cal.App.3d 516 (personnel records subject to Constitutional right of privacy); Valley Bank of Nevada v. Superior Court (1975) 15 Cal.3d 652, 657 (A party to an action may assert the privacy rights of third parties such as its employees.); Tylo v. Superior Court (1997) 55 Cal.App.4th 1379, 1387 (“[t]he party seeking the constitutionally

protected information has the burden of establishing that the information sought is directly relevant to the claims.”); Johnson by Johnson v. Thompson (10<sup>th</sup> Cir. 1992) 971 F.2d 1487, 1497; Miller v. Federal Express Corp. (WD TN 1999) 186 FRD 376, 384; Matter of Hawaii Corp. (D HI 1980) 88 FRD 518, 524. In addition, Amtrak objects to this request to the extent it calls for documents protected from disclosure by the attorney-client privilege and the attorney work product doctrine.

**REQUEST NO. 28.**

All **DOCUMENTS THAT REFLECT, REFER or RELATE TO** the total number of African-American conductors who applied for engineer position(s) in the Pacific Division of Defendant AMTRAK from January 1998 to the present.

**RESPONSE TO REQUEST FOR PRODUCTION NO. 28:**

Defendant objects to this request on the basis it is overbroad, compound, and unduly burdensome. Defendant further objects to this request as seeking information neither relevant to the claim or defense of any party, nor reasonably calculated to lead to the discovery of admissible evidence. Defendant also objects to this request to the extent it seeks to obtain information or materials protected from disclosure by the California Constitutional right of privacy and/or the federally recognized right to privacy under the United States Constitution. See Board of Trustees of Leland Stanford Junior University v. Superior Court (1981) 119 Cal.App.3d 516 (personnel records subject to Constitutional right of privacy); Valley Bank of Nevada v. Superior Court (1975) 15 Cal.3d 652, 657 (A party to an action may assert the privacy rights of third parties such as its employees.); Tylo v. Superior Court (1997) 55 Cal.App.4th 1379, 1387 (“[t]he party seeking the constitutionally protected information has the burden of establishing that the information sought is directly relevant to the claims.”); Johnson by Johnson v. Thompson (10<sup>th</sup> Cir. 1992) 971 F.2d 1487, 1497; Miller v. Federal Express Corp. (WD TN 1999) 186 FRD 376, 384; Matter of Hawaii Corp. (D HI 1980) 88 FRD 518, 524. In addition, Amtrak objects to this request to the extent it calls for documents protected from disclosure by the attorney-client privilege and the attorney work product doctrine. Subject to and without waiving the foregoing, Amtrak responds as follows: Amtrak previously produced applications and related records that it received in response to the jobs/

1 vacancies to which Plaintiff contends he applied. To the extent any Amtrak conductor applied for  
 2 any such position, such application and supporting documentation have been produced.

3 **REQUEST NO. 29.**

4 Any and all **DOCUMENTS** which **REFLECT, RELATE** or **REFER TO** derailments in the  
 5 Pacific Division of Defendant AMTRAK between January 1, 1998 to the present.

6 **RESPONSE TO REQUEST FOR PRODUCTION NO. 29:**

7 Defendant objects to this request on the basis it is overbroad, compound, and unduly burdensome.

8 Defendant further objects to this request as seeking information neither relevant to the claim or  
 9 defense of any party, nor reasonably calculated to lead to the discovery of admissible evidence.

10 Defendant also objects to this request to the extent it seeks to obtain information or materials  
 11 protected from disclosure by the California Constitutional right of privacy and/or the federally  
 12 recognized right to privacy under the United States Constitution. See Board of Trustees of Leland  
 13 Stanford Junior University v. Superior Court (1981) 119 Cal.App.3d 516 (personnel records subject  
 14 to Constitutional right of privacy); Valley Bank of Nevada v. Superior Court (1975) 15 Cal.3d 652,  
 15 657 (A party to an action may assert the privacy rights of third parties such as its employees.); Tylo  
 16 v. Superior Court (1997) 55 Cal.App.4th 1379, 1387 (“[t]he party seeking the constitutionally  
 17 protected information has the burden of establishing that the information sought is directly relevant  
 18 to the claims.”); Johnson by Johnson v. Thompson (10<sup>th</sup> Cir. 1992) 971 F.2d 1487, 1497; Miller v.  
 19 Federal Express Corp. (WD TN 1999) 186 FRD 376, 384; Matter of Hawaii Corp. (D HI 1980) 88  
 20 FRD 518, 524. In addition, Amtrak objects to this request to the extent it calls for documents  
 21 protected from disclosure by the attorney-client privilege and the attorney work product doctrine.

22 Dated: April 3, 2007

PRICE AND ASSOCIATES

23  
 24 /s/ Pamela Y. Price

25 PAMELA Y. PRICE, Attorneys for Plaintiff  
 26 JOHN EARL CAMPBELL